

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MALIK E. DELEON,
Plaintiff

v.

ROBERT MARSH, *et al.*,
Defendants

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No. 1:21-cv-289

(Judge Rambo)

ORDER

AND NOW, on this 11th day of July 2022, for the reasons set forth in the accompanying memorandum, **IT IS ORDERED THAT:**

1. Defendants' motions to dismiss (Doc. Nos. 61, 68) are **GRANTED**;
2. Plaintiff's negligence claim is **DISMISSED WITH PREJUDICE**;
3. Plaintiff's deliberate indifference claim against Defendants Kephart, Ackerman, and Kollman and his claims against Defendants Marsh and Hoffman are **DISMISSED WITHOUT PREJUDICE**;
4. Plaintiff's motion to compel discovery (Doc. No. 81) is **DENIED**;
5. Plaintiff's motion for leave to amend (Doc. No. 87) is **DEEMED WITHDRAWN**;
6. Plaintiff may file a second amended complaint within thirty days of the date of this order to cure the deficiencies identified in the court's memorandum opinion with respect to Plaintiff's deliberate indifference claim and his claims against Defendants Marsh and Hoffman. Any second amended

complaint filed pursuant to this order shall be filed to the same docket number as the instant action, shall be entitled “Second Amended Complaint,” and shall be complete in all respects. It shall be a new pleading that stands by itself as an adequate complaint under the Federal Rules of Civil Procedure;

7. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form; and
8. If Plaintiff fails to file a second amended complaint by the above date, the claims against Defendants Kephart, Ackerman, Kollman, Marsh, and Hoffman will be dismissed without further leave to amend, Plaintiff’s amended complaint shall remain the operative pleading in this case, and the case shall proceed as to Plaintiff’s claims against Defendants Shaw, Baumgardner, Adams, Brant, and Breeden.

s/ Sylvia H. Rambo
United States District Judge